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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/351,057	07/12/1999	JACEK SLON-USAKIEVICZ	06942/021001	9179

7590

08/25/2003

Iandiorio & Teska  
260 Bear Hill Road  
Waltham, MA 02451-1018

EXAMINER

DELACROIX MUIRHEI, CYBILLE

ART UNIT	PAPER NUMBER
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1614

DATE MAILED: 08/25/2003

24

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/351,057

Applicant(s)

SLON-USAKIEVICZ ET AL.

Examiner

Cybille Delacroix-Muirheid

Art Unit

1614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 March 2003 and 06 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 28-50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 29-46 and 48 is/are allowed.
- 6) ☒ Claim(s) 47, 49 and 50 is/are rejected.
- 7) ☒ Claim(s) 28 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

***Detailed Action***

The following is responsive to the Request for Continued Examination under 37 CFR 1.114 of the above-identified application 09/351,057.

The amendment received March 4, 2003 has been entered.

Claims 2 and 4-9 are cancelled. New claims 45-50 are added. Claims 28-50 are currently pending.

The previous claim objections set forth in paragraph 1 of the office action mailed Dec. 3, 2002 **is withdrawn** in view of Applicant's amendment and the remarks contained therein.

The previous rejection of claims 6 and 8 under 35 USC 112, paragraph 2, set forth in paragraphs 2-3 of the office action mailed Dec. 3, 2002 **is withdrawn** in view of Applicant's amendment and the remarks contained therein.

***New Ground(s) of Rejection***

***Claim Objections***

1. Claim 28 is objected to because of the following informalities: in claim 28, line 7, "DH(NR)" should read -CH(NR)--. Appropriate correction is required.

***Claims Rejection—35 USC §112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 47, 49, 50 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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3. Claim 47 recites the limitation "R2 is comprised of.....SEQ ID NO: 3" in lines 1-

2. There is insufficient antecedent basis for this limitation in the claim.

4. Claims 49-50 recite the limitation "R2 is comprised of....SEQ ID NO: 5" in lines 1-

2. There is insufficient antecedent basis for this limitation in the claim.

***Allowable Subject Matter***

5. Claims 28-50 are free from the prior art because the prior art does not disclose or fairly suggest Applicant's claimed compounds and methods of use.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cybille Delacroix-Muirheid whose telephone number is 703-306-3227. The examiner can normally be reached on Tue-Thur. from 8:30 to 6:00. The examiner can also be reached on alternate Mondays .

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marianne Seidel, can be reached on (703) 308-4725 The fax phone number for the organization where this application or proceeding is assigned is 703-308-7924.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1235.

CDM



August 21, 2003



Cybille Delacroix-Muirheid  
Patent Examiner Group 1600